

The 1998 Texas Plan:

Planning for the Delivery of Civil Legal Services in Texas

The 1998 Texas LSC State Planning Committee
for the Delivery of Legal Services to the Poor

Contact:
Paul E. Furrh, Jr.
East Texas Legal Services, Inc.
Phone: 409.560.1850
Fax: 409.560.5385
paulfurrh@netdot.com

TABLE OF CONTENTS

Introduction and Call for Response	1
Planning Committee Members	3
I. LEGAL SERVICES IN TEXAS: THE SETTING	5
II. “OVERALL OBJECTIVES OF A STATE CIVIL LEGAL ASSISTANCE SYSTEM TO SECURE EQUAL JUSTICE FOR ALL”	7
A. To Educate and Inform Low-income Persons of Their Legal Rights and Responsibilities	7
B. To Inform Low-income Persons about the Available Options and Services to Solve Their Legal Problems, Protect Their Legal Rights and Promote Their Legal Interests	7
C. To Ensure That All Low-income Persons Have Meaningful Access to a Full Range of High Quality Legal Assistance When They Have Chosen Options That Require Legal Advice and Assistance	8
III. PRINCIPAL ISSUES	10
A. Intake, Advice and Referral	11
Scope	11
Strengths and Weaknesses of the Current Approach	11
Goals to Strengthen and Expand Services , Major Steps and Timetable	13
B. Technology	15
Scope	15
Strengths and Weaknesses of the Current Approach	15
Goals to Strengthen and Expand Services, Major Steps and Timetable	17
C. Access to the Courts, Self-help and Preventive Education	18
Scope	18
Strengths and Weaknesses of the Current Approach	18
Goals to Strengthen and Expand Services, Major Steps and Timetable	18
D. Coordination of Legal Work, Training, Information and Expert Assistance	20
Scope	20
Strengths and Weaknesses of the Current Approach	20
Goals to Strengthen and Expand Services, Major Steps and Timetable	21
E. Private Attorney Involvement	22
Scope	22
Strengths and Weaknesses of the Current Approach and Goals to Strengthen and Expand Services, Major Steps and Timetable	25
F. Resource Development	26
Scope	26
Strengths and Weaknesses of the Current Approach	26
Goals to Strengthen and Expand Services, Major Steps and Timetable	28
G. System Configuration	29
Scope	29

	Strengths and Weaknesses of the Current Approach	29
	Goals to Strengthen and Expand Services, Major Steps and Timetable	29
H.	Leadership	31
I.	Ethics	32
J.	Equal Access and Restricted Funds	34
Appendix	36
K.	1995 Texas Plan	37

1998 TEXAS PLAN:

Planning for the Delivery of Civil Legal Services in Texas

Preliminary Document September 1998

Introduction and Call for Response

In March, 1998, Texas Legal Services Corporation (LSC) grantees¹, Texas Equal Access to Justice Foundation (TEAJF) grantees, and representatives of the State Bar Of Texas (SBOT) undertook to conduct a comprehensive, statewide plan to enhance the delivery of civil legal services to low-income people in Texas. The purpose of this project is to provide a vehicle for examining key issues in the delivery of legal services, to improve delivery and to find new ways for providers to work together.

The specific impetus for this project was a Program Letter issued by the Legal Services Corporation to its grantees in February, 1998 directing the LSC grantees to “participate in a state planning process to examine *from a statewide perspective*, what steps should be taken in their states to develop further a comprehensive, integrated statewide delivery system.”²

LSC elaborated upon its planning process directive on July 6, 1998 when it issued a further Program Letter³ and accompanying planning guidance document⁴. In the guidance document, LSC stated:

In presenting these *Planning Considerations*, LSC does not intend to establish ‘bottom line standards.’ Each state is different and needs to find its own ways to strengthen and further develop its statewide system. At the same time, we believe there are enough commonalities among the states and experience within the legal services community to suggest some guideposts that may help recipients and other stakeholders in their collaborative efforts to improve and expand services to clients.

¹Texas had 51 organizations that received LSC and TEAJF grants for calendar year 1997.

²*State Planning*, Program letter 98-1, Legal Services Corporation, February 12, 1998.

³*State Planning Considerations, Program Letter 98-6, Legal Services Corporation, July 6, 1998.*

⁴*State Planning Considerations*, Legal Services Corporation, July 1998.

After receiving notice from LSC and meeting with LSC President John McKay to discuss the statewide planning process, the directors of LSC-funded legal services programs in Texas met, formed a Steering Committee, and invited TEAJF representatives and grantees and the SBOT to participate in the statewide planning process. This planning process adds to the earlier work conducted in 1995 by Texas LSC grantees, TEAJF representatives and grantees, and representatives of the SBOT, who met in Austin and wrote the *Texas State Plan for the Delivery of Legal Services to the Poor* by LSC programs. That report, the “1995 Plan” will serve as a bench mark for this planning process and is listed in the appendix.

The 1998 planning process is coordinated by a Committee of experienced legal practitioners for legal services and client representatives. After several meetings and the establishment of sub-committees to develop individual LSC sub-categories, a statewide conference including LSC recipients and other stakeholders such as TEAJF grantees and representatives and representatives of the SBOT, was held on September 23 and 24, 1998 to draft the 1998 Texas Plan. The Committee views the 1998 Texas Plan as an initial step, and will meet throughout the next year and will continue to document its work.

The 1998 report will be submitted to the Legal Services Corporation by October 1, 1998 and will be distributed throughout Texas for discussion and comment.

Readers of the Committee’s Report are urged to provide comments to the Committee. Mail can be directed to Paul E. Furrh, Jr., East Texas Legal Services, Inc., 414 E. Pillar Street, P.O. Box 631070, Nacogdoches, Texas 75963 or by e-mail at paulfurrh@netdot.com.

PLANNING COMMITTEE MEMBERS:

Paul E. Furrh, Jr. -
Executive Director East Texas
Legal Services - Chairman
P.O. Box 631070
Nacogdoches, Texas 75963-1070
(409)560-1850
(409)560-5385/Fax
paulfurrh@netdot.com

Brendan E. Gill -
Executive Director Bexar County
Legal Aid
434 S. Main, Suite 300
San Antonio, Texas 78204
(210)227-0111
(210)223-4728/Fax

Errol Summerlin -
Project Director Coastal Bend
Legal Services
102 Pueblo
Corpus Christi, Texas 78405
(512)883-3667
(512)883-7615/Fax

Justo Fernandez-Gonzalez
Executive Director El Paso Legal
Assistance Society
1220 N. Stanton
El Paso, Texas 79902
(915)544-3022
(915)544-3789/Fax

Dwayne Bilton -
Executive Director Gulf Coast
Legal Foundation
1415 Fannin
Houston, Texas 77002
(713)652-0077
(713)652-2709/Fax

Sheryl Swanton -
Executive Director Heart of Texas
Legal Services
900 Austin Avenue,
7th Floor
P.O. Box 527
Waco, Texas 76703
(254)756-7944
(254)756-3381/Fax

Regina Rogoff -
Executive Director Legal Aid of
Central Texas
205 West 9th Street,
Suite 200
Austin, Texas 78701
(512)476-7244
(512)476-3940/Fax
legalaiddrr@earthlink.net

Jonathan Vickery -
President/ CEO Legal Services of
North Texas
1515 Main Street
Dallas, Texas 75201
(214)748-1234
(214)761-1077/Fax

David Hall -
Project Director Texas Rural Legal
Aid
259 South Texas
Weslaco, Texas 78596
(956)968-6574
(956)968-8823/Fax

Jesse Gaines -
Executive Director West Texas
Legal Services
600 E. Weatherford Street
Fort Worth, Texas 76102
(817)336-3943
(817)336-8625/Fax

Randy Chapman -
Executive Director
Texas Legal
Services Center
815 Brazos, Suite 1100
Austin, Texas 78701
(512)477-6000
(512)477-6576/Fax
rchapman@tlsc.org

Lisa Melton -
Executive Director Texas Equal
Access to Justice Foundation
400 West 15th Street, Suite 712
P.O. Box 12487
Austin, Texas 78711-2487
(512)463-1444 x155
(512)469-0112/Fax

Julie Oliver -
Executive Director Texas Lawyers
Care
P.O. Box 12487
Austin, Texas 78711
(512)463-1463 x2155
(512)477-8302/Fax

Jim Comstock-Galagan -
Executive Director - Advocacy,
Inc.
7800 Shoal Creek Blvd., #171-E
Austin, Texas 78757-1024
(512)454-4816
(512)323-0902/Fax

Richard Tate -
Vice Chairman
Texas Equal Access to Justice
Foundation
Board of Directors
206 South Second
Richmond, Texas 77469
(281)341-0077
(281)341-1003/Fax

John Jones -
Member Board of Directors,
Texas Legal
Services Center
6825 Pasatiempo Circle
El Paso, Texas 79912
(915)544-9997
(915)544-8544/Fax

Bonnie Ericson -Co-Chair SBOT
Board Legal Services Committee
118 S.E. Avenue B
P.O. Box 1978
Seminole, Texas 79360
(915)758-2181
(915)758-5850/Fax

Sharon Freytag -Co-Chair SBOT
Board Legal Services Committee
901 Main Street
Dallas, Texas 75202-3789
(214)651-5000
(214)651-5940/Fax

Harriet E. Miers
Co-Chair Legal Services to the
Poor in Civil
Matters Committee
2200 Ross Avenue,
Suite 2200
Dallas, Texas 75201-6776
(214)740-8000
(214)740-8800/Fax

Scott Ozmun
Co-Chairman
State Bar of Texas
Legal Services to the Poor in Civil
Matters Committee
12th & Lavaca Street
P.O. Box 1802
Austin, Texas 78767
(512)476-4346
(512)476-4400/Fax

Rose Wilson - Representative
Texas Clients Council
P.O. Box 11651
Lubbock, Texas 79408

Charles Wilson - Representative
Client Member
East Texas Legal
Services, Inc.
Box 1791
Marshall, Texas 75670

Richard Pena, SBOT President
Barton Oaks Plaza Two
901 MoPac Expressway, Suite 325
Austin, Texas 78746-5747
(512)327-6884
(512)327-8354/Fax

Frank W. Newton, SBOT
Immediate Past President
Dean, Texas Tech School of Law
1802 Hartford
Lubbock, Texas 79409
(806)742-3793
(806)747-1892/Fax

Charles F. Aycock, SBOT
President-elect
Aldridge, Aycock, Actkinson &
Rutter, L.L.P.
402 Third Street
P.O. Box 286
Farwell, Texas 79325
(806)481-3361
(806)481-9060/Fax

Jo Ann Merica, President, TYLA
Phillips & Merica, P.C.
1303 San Antonio Street
Austin, Texas 78701
(512)477-1216
(512)478-0523/Fax

Bill Mateja, Immediate Past
President TYLA
U.S. Attorney's Office
1205 Texas Avenue,
Room 706
Lubbock, Texas 79401
(806)472-7351
(806)749-2324/Fax

Jerome Dick,
Executive Director
Jefferson County
Pro Bono Project
Jefferson County Courthouse
1149 Pearl Street,
Room 337
Beaumont, Texas 77701
(409)839-2332
(409)784-5808/Fax

Lee Teran
St. Mary's University School of
Law
Immigration and Human Rights
Clinic
One Camino Santa Maria
San Antonio, Texas 78284-0400
(210)226-5515
(210)226-5516/Fax

Pamela Donnelly
AIDS Outreach Center
801 West Cannon
Fort Worth, Texas 76104
(817)335-1994 ext. 250
(817)335-3617/Fax

I. LEGAL SERVICES IN TEXAS: THE SETTING

During the past two years, as president-elect and president, I visited many legal services offices throughout the State. With my own eyes I have seen the need, and I have come to the stark realization that there is an enormous need for competent legal services by those who cannot afford lawyers that is not being met. Frank Newton, Past President, State Bar of Texas.

Texas, from all sources, receives \$10.58 per poor person to provide legal services to the poor ranking 47th out of 50 states. The imperative for states that have total funding of less than \$16.00 per poor person (about 25 states) should be to raise more money. John Arrango, Algodones Associates, Inc.

Since the beginning of this decade, the principal sources of funding for civil legal services for poor persons in Texas have been the federal Legal Services Corporation and the TEAJF. In 1998, those two sources will generate almost \$12 million per year less than they did at their peak during the decade. Errol Summerlin, Executive Director, Coastal Bend Legal Services.

At one point during the nineties, East Texas Legal Services, Inc. had 33 case-handlers, about one case-handler per 10,000 eligible clients. Currently, we have 21 case-handlers, about one case-handler per 17,000 eligible clients. This represents a loss of nearly \$1 million per year in our annual budget. The most significant result is that we deny many cases and applicants for legal services in the 35,000 square mile area that comprises East Texas do not receive the legal services they could have at one time. Paul E. Furrh, Jr., Executive Director, East Texas Legal Services, Inc.

- In 1997 Texas LSC programs received \$26,221,396 to provide legal services to the poor in Texas. Texas LSC programs closed 79,484 cases in 1997 of which 76% (60,427) received brief service while 24% (19,057) received extended services⁵
- In 1996-1997 the TEAJF made grants of \$5,225,894 to the ten (10) LSC funded programs and 41 other grantees. During the grant year these programs used TEAJF funds, in whole or in part, to close 182,840 cases of which 88% (161,093) received brief service while 12% (21,749) received extended service.⁶ The closed cases include the vast majority of LSC program closed cases.
- The number of applicants for legal services to Texas LSC funded programs and TEAJF funded programs that were denied legal services, grew in 1997.⁷

These statements and facts present just a few of the issues confronting the committee in making recommendations for the state plan.

⁵LSC 1997 Fact Book

⁶TEAJF 1996-1997 Grant Report.

⁷Ibid.

II. “OVERALL OBJECTIVES OF A STATE CIVIL LEGAL ASSISTANCE SYSTEM TO SECURE EQUAL JUSTICE FOR ALL.”

In order to establish a frame of reference for this document that is consistent with similar discussions nationally, this section quotes verbatim from a recent draft document published by the Project for the Future of Legal Services⁸ that defines proposed objectives for a state legal services system, as follows:

The fundamental purpose of a state civil legal assistance system is to enable low-income persons⁹ to address their unmet needs effectively. To achieve this fundamental purpose, the system must meet the following objectives:

A. TO EDUCATE AND INFORM LOW- INCOME PERSONS OF THEIR LEGAL RIGHTS AND RESPONSIBILITIES.

Many low-income persons do not recognize that they have a need that could be addressed through the legal system. The civil legal assistance system should educate and inform low-income persons within a state to enable them to:

1. Recognize their legal rights and responsibilities and unmet legal needs,
2. Address their legal needs effectively;
3. Take action to prevent legal problems from arising.

B. TO INFORM LOW-INCOME PERSONS ABOUT THE AVAILABLE OPTIONS AND SERVICES TO SOLVE THEIR LEGAL PROBLEMS, PROTECT THEIR LEGAL RIGHTS AND PROMOTE THEIR LEGAL INTERESTS.

Even when low-income persons recognize that they have a legal need and are aware of their legal rights and responsibilities, many will not be aware of all possible methods for solving their legal problems, protecting their legal rights and promoting their legal interests.

Some options involve preventative steps, self-help and collective actions that do not involve the formal use of the legal system. Other options involve using alternative dispute resolution, negotiation and the judicial and administrative adjudicatory systems. Still other options include community economic development, other transactional assistance and advocacy before administrative agencies and legislative bodies.

⁸This entire section is quoted from: *Comprehensive, Integrated Statewide System For The Provision of Civil Legal Assistance to Low Income Persons to Secure Justice for All - Draft Discussion Document*, The Project For The Future of Equal Justice, 1998.

⁹The Project for the Future of Equal Justice is a joint venture of the National Legal Aid and Defender Association (NLADA) and the Center for Law and Social Policy (CLASP). The Project aims to expand and strengthen the nationwide partnership of responsibility for equal justice, to create and support new approaches to providing the information and assistance poor people need to resolve their civil legal problems, and to promote the collaboration of a community of advocates, including legal services programs, the private bar, social service and other community organizations, law schools, courts, and advocacy organizations at the national and state levels.

Low-income persons need to be aware of the range of options available and the pros and cons of exercising particular options so that they can choose the option that best meets their needs.

Low-income persons also need to know about all available legal assistance providers and how to access those providers.

C. TO ENSURE THAT ALL LOW-INCOME PERSONS HAVE MEANINGFUL ACCESS TO A FULL RANGE OF HIGH QUALITY LEGAL ASSISTANCE WHEN THEY HAVE CHOSEN OPTIONS THAT REQUIRE LEGAL ADVICE AND ASSISTANCE.

1. Low-income persons should have access to all legitimate legal tools, including a full range of high quality legal services so that they can:
 - a. Anticipate and prevent legal problems from arising;
 - b. Solve their legal problems;
 - c. Protect their legal rights;
 - d. Promote their legal interests;
 - e. Oppose laws, regulations, policies and practices that operate unfairly against them;
 - f. Enforce and reform laws before legal problems arise; and
 - g. Improve their opportunities and quality of life.
2. In addition, access is essential for individuals and groups who are politically or socially disfavored, as well as for all constituencies with distinct and disproportionately experienced legal needs, such as Native Americans, migrant farm workers, prisoners, mentally disabled, others residing in institutions, immigrants, elderly and persons with disabilities.
3. The system also must seek to eliminate barriers to access because of geographic isolation, language, disability, age, race, ethnicity and culture, inability to communicate, and inaccessibility or location of provider facility.

The Legal Services Corporation in its State Planning Considerations¹⁰ set out the following goals of effective statewide systems:

The Corporation encourages development of statewide civil legal services delivery systems which are responsive to the most compelling needs of eligible clients, ensure the highest and most strategic use of all available resources, and maximize the opportunity for clients throughout the state to receive timely, effective and appropriate legal services. In accordance with prevailing professional norms, such a system should:

- identify and address the most important legal needs of eligible clients, as determined by appropriate needs assessments, taking into account the diversity of persons and needs in the state and its various communities;
- strive to provide low-income persons throughout the state broad and equal access to legal services regardless of such obstacles as disability, geographical isolation, culture and language;
- provide high quality legal services to clients throughout the state, regardless of regional distinctions in demography, the economy, or the presence or absence of other local resources to provide or support the provision of legal services to low-income persons;
- encourage innovation in the delivery of legal services accompanied by appropriate assessment of results;
- minimize duplication of capacities and administration and make the best use of resources available to the delivery system as a whole and its component parts; and
- have the capacity and flexibility to respond effectively and efficiently to new and emerging client needs and other changes affecting the delivery of legal services to the poor.

¹⁰State Planning Considerations, Legal Services Corporation, July, 1998.

III. “PRINCIPAL ISSUES”

This section presents a discussion of the key issues facing LSC funded programs in Texas. Topics A through G are those that LSC has specifically requested its grantees to address and are titled as LSC has suggested. Topics H through J were added by the Committee because of their importance in addressing a complete agenda of related issues. At the beginning of each LSC defined topic, in the subsection labeled “Scope,” we have provided a quotation from LSC that describes more fully the components of the topic that LSC wishes its grantees to address.

A. Intake, Advice and Referral

Scope

LSC

How are intake and delivery of advice and referral services structured within the state? What steps can be taken to ensure a delivery network that maximizes client access, efficient delivery and high quality legal assistance?

Goal of State Planning Process

To ensure that the client eligible population throughout the state of Texas has substantially equivalent and meaningful access to quality legal services performed by highly trained staff that provide substantive assistance to those seeking legal help and that the system(s) employed throughout the state ensure personal attention, confidentiality and accountability to the client community for the services provided.

Assess The Strengths and Weaknesses of the Current Approach:

Texas has a client eligible population of more than 3 million, representing over one million households. The eligible population is spread throughout a geographic area as large as the combined states of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia and the District of Columbia. The population centers vary from modern, technologically advanced urban areas, to heavily populated *colonias*, to sparsely populated rural counties where small towns dot the landscape and little or no public transportation exists. The population is as diverse as the landscape, with culturally rich, concentrated pockets of Mexican American, African American, Asian American, and other populations, presenting unique problems associated with intake and delivery systems.

Recognizing the contrasting differences between the many regions of the state, Texas has developed 24 State Planning Regions and the Texas Department of Human Services has divided the state into 11 Regions. Although there are only ten (10) LSC funded basic field programs in Texas, with one program also assuming the task of serving the statewide migrant population, there are forty-one (41) additional TEAJF funded legal providers scattered across the state.

A variety of intake systems are currently in place throughout the State. There are statewide telephone intake systems for special populations; intra-program telephone intake systems for specific geographic areas; person to person intake in provider offices; circuit riding; and outreach efforts to the institutionalized and homebound. Within the 24 state planning regions there exist a number of “info-lines” and cooperative intake arrangements between multiple providers of services to the eligible client populations.

The development of any coordinated intake system within the State of Texas must first recognize the diversity within the state as well as the sheer size of the problem to be addressed. As this matter is approached, certain findings regarding the systems currently in place can be made:

- the sheer size of the state and the lack of adequate funding for strategically placed new offices means that individual clients could be located great distances from existing offices;

- legal services providers use a variety of means, including toll-free telephone lines, outreach visits, circuit riding, coordination with other agencies within the 24 state planning regions, and multiple uses of private attorneys to make services available to clients living in locations distant from staffed offices;
- the systems developed by the providers were developed with “client access” and personal attention being of paramount concern;
- intake systems are specifically designed to minimize language barriers and information is received and disseminated in languages commonly spoken in the areas served;
- those providers that utilize telephone intake systems offer alternative methods for accessing services to those clients that have difficulty using telephones and who have emergency matters that require immediate personal assistance;
- there exists coordination in the identification of issues of special client populations and several statewide intake systems for special populations are in place, including victims of domestic violence, the elderly, and persons with developmental disabilities;
- service delivery to the state’s migrant population is coordinated through the establishment of a single statewide provider;
- intake systems among all LSC funded providers and a number of IOLTA providers use technology and case managements systems to record and manage client data, generate letters, information and self-help material;
- through the use of toll-free telephone services and strategically located offices throughout the state, intake, advice and referral systems within geographic regions provide easy and even access to eligible clients;

Establish Goals to Strengthen and Expand Services to Eligible Clients and Determine the Major Steps and a Timetable Necessary to Achieve Those Goals:

Due to differing local regulations, needs, issues, language barriers, and special populations, it is imperative that intake systems are conducted by well-trained staff familiar with local responses to client problems. Although individual and statewide intake systems have adapted to the ever-growing demand for services, it is recognized that, without additional funding to achieve minimum access levels throughout the state, further study and collaboration is needed to meet the goal as previously stated. To this end, the Committee recommends that the Committee continue to study the current intake, advice and referral system over the next year. Specifically, the Committee will work toward

- the creation of an internet web site that includes a catalogue of program eligibility requirements, priorities and, in particular, a list of types of cases that a provider cannot accept, as well as specialized legal expertise available;

- creating a system that is client friendly and provides meaningful services at the initial contact or point of entry so as to minimize or eliminate multiple referrals for a client;
- a review of inter-program referral *agreements* that assure acceptance of the client's case upon referral;
- ensuring that any existing system or newly created system be accountable to the client community, with minimum grievance rights afforded to applicants for service;
- a review of client problems and special population issues that might lend themselves to regional or statewide intake systems;
- review which types of cases require in depth analysis due to the complexity of the issues;
- consider the feasibility of creating substantive law "information lines" that would provide advice on specific areas of the law;
- review the extent to which a more *holistic approach* at intake might identify recurring themes that require combined strategies and deliberate responses to systemic problems;
- determine the extent to which combined intake systems violate the program integrity and independence standards established by the LSC;
- determine the extent to which meaningful services can be provided to all applicants for service when individual providers are restricted in their activities by funding sources;
- establish minimum standards for periodic review of intake systems and ongoing involvement in the evolution of the working task force;
- work with the subcommittee on technology to the extent that it makes recommendations on improving technological hardware and software capacities of providers as it relates to case management software that could be utilized in telephone intake systems;
- determine how best to integrate the use of telephone systems to overcome barriers that limit access to vulnerable client populations;
- determine the extent to which community outreach to special populations should override the quest for efficiency and uniformity in telephone intake systems; and
- determine whether there exists a single system or a combined system, including centralized telephone *switching* capabilities, that has the staff and financial capacity to handle the demands, while achieving the goal as previously stated.

B. Technology

Scope

LSC

Is there a State legal services technology plan? How can technological capacities be developed statewide to assure compatibility, promote efficiency, improve quality and expand services to clients?

Assess the Strengths and Weaknesses of the Current Approach:

The Corporation's *Planning Considerations* encourage programs to use coordinated efforts and to take advantage of new technology "to assure compatibility, promote efficiency, improve quality and expand services to clients."¹¹ In striving to achieve these laudable goals, Texas must find the funds necessary to implement these strategies. Although technology is cheaper than ever before, there is still a substantial capital cost that must be underwritten before implementing many of the new technologies. With stagnant or decreasing funding levels, programs must face hard choices between spending for improved efficiencies through technology vs. spending for the human resources necessary to actually deliver the legal services product to the client.

Most Texas grantees have already implemented technology upgrades to a substantial degree. Every LSC grantee has a computer for virtually every staff member, except for West Texas Legal Services, and that program has additional computers on order that will meet that important goal before the end of the year. However, as the following inventory of program technology indicates, most of the computers being used are of outmoded 486-processor – or earlier – technology and are inadequate for use with current applications and Internet access. In addition, many of the older computers present substantial "Y2K" compliance difficulties. It is a very high priority for those computers to be upgraded to current standards.¹²

To upgrade existing computers, legal services programs must look to the Texas Bar Foundation as the principal source of funds in Texas for such capital improvements. The Bar Foundation prefers to make grants for one-time purposes, a purpose that is consistent with funding efficiency enhancements, such as technology upgrade efforts, on an ad hoc basis. The Committee will urge the Foundation to entertain grants from service providers that would allow them to replace computers and related peripherals on a five-year cycle.

¹¹LSC Program Letter 98-6 (July 6, 1998), *State Planning Considerations*, p. 5.

¹²At less than \$1500 per unit, new computers should at least contain Pentium II 200 Mhz processors, 64 meg memory, 4 gig hard drives, 24X CD-rom drives, and a compatible monitor.

From Table 1: Figure 1, it should also be noted that 14 offices in five different programs do not have Local Area Networks, and that none of the programs have their branch offices networked with their central offices. Significant gains in efficiency can be achieved by addressing these networking deficiencies, and should be undertaken before attempting to establish state-wide or regional networking efforts or intake systems.

Table 1: Texas Legal Services Programs: Technology Inventory								
Program	Case Mgmt Software	Computers			No. Offices	LAN	Internet Access	Web Page
		Pentium	486	386				
Bexar County	Kemps 95	20%	70%	10%	4	3 offices	4 offices	No
Central Texas	Kemps 95	25%	50%	25%	2	2 offices	2 offices	No
Coastal Bend	File Pro 16	70%	30%		6	2 offices	6 offices	No
East Texas	Kemps 95	30%	50%	20%	7	7 offices	6 offices	No
El Paso	Kemps DOS	40%	60%		1	1 office	1 office	No
Gulf Coast	Kemps 95	25%	65%	10%	5	1 office	1 office	No
HOTLS	Kemps DOS	20%	60%	20%	1	1 office	1 office	No
North Texas	PMT1	85%	15%		2	2 offices	2 offices	Yes
TRLA	Custom FoxPro	50%	40%	10%	10	6 of 1	10 offices	No
WTLS	Kemps 95	25%	70%	5%	14	12 offices	1 office	No

Figure 1

All Texas programs use some form of computerized intake, case management, and time-keeping software. Texas LSP's will examine the desirability of implementing common case management software among the ten programs. Kemp's CaseWorks, TRLA's custom-written Client Tracking System, and other nationally-available software will be reviewed to determine their suitability at each program, including factors such as performance, cost, adaptability, and technical support.

Thirty-four main and branch offices have intra-office e-mail systems through their LAN's; 14 do not. All offices have some form of Internet access for sending e-mail and file attachments outside their local office networks. In addition, all but nine of the 48 attorney-staffed offices have at least one

computer with access to the Internet. Within a year, it is anticipated that all offices will have access to the Internet, both for e-mail and for access to the Web. North Texas is the only LSC-funded program with a Web page at the present time.

Several programs have computer assisted legal research capacities, generally through CD-rom libraries or WestLaw or Lexis, or both. TRLA is attempting to implement Internet access to its CD-rom library as a means of reducing both library and WestLaw costs. Several programs are exploring the use of Internet-phone systems as a means for reducing long-distance telephone costs in calls among their branch offices.

LSC-funded programs are also exploring measures by which non-LSC service providers, such as domestic violence shelters and AIDS support organizations, can integrate their services with those provided by the local legal services program. For example, within a year the legal advocates in domestic violence shelters in the TRLA service area will be using its Client Tracking System to enter case data for their joint clients, and the CTS will automatically produce pleadings and other case-related documents for use by *pro bono* or staff attorneys. Shelters will be able to increase their scope of legal services to battered women at very little cost, and clients will have increased access to essential social services.

Technical support and staff training is provided by staff experts in most of the larger programs. The smaller programs rely upon the Texas Legal Services Center and commercial services for training and support.

Texas LSP's have initiated a Y2K compliance effort to determine whether their computers, software, accounting systems, and mission critical databases will continue to function on January 1, 2000. Many legal services workers are using older DOS-based programs, such as WordPerfect v. 5.1, on 486 or older computers, none of which are Year 2000 compliant. Substantial efforts must be made to upgrade the hardware and software to avoid major disruptions in service 15 months from now.

Establish Goals to Strengthen and Expand Services to Eligible Clients and Determine the Major Steps and a Timetable Necessary to Achieve Those Goals:

The Committee recommends that the Committee continue to study the use of technology over the next year.

C. Access to the Courts, Self-help and Preventive Education

Scope

LSC

What are the major barriers low-income persons face in gaining access to justice in the State? What efforts can be taken on a statewide basis to expand client access to the courts, provide preventive legal education and advice, and enhance self-help opportunities for low-income people?

Assess the Strengths and Weaknesses of the Current Approach:

Texas has a tradition of developing innovative and new approaches to self-help and community legal education due to the large number of low-income clients and the great distance involved in serving these clients throughout all of Texas. A coordinated effort at developing self-help and community preventive education material over the years has produced a large number of brochures and other materials from the State Bar of Texas, The Texas Attorney General's Office, and individual legal services programs. Pro se efforts have been tried for a number of years, particularly in large urban areas. Several legal services programs provide clinics and materials to assist pro se applicants. The advent of the hotline approach to providing brief legal services in Texas has also produced a large number of these materials.

Establish Goals to Strengthen and Expand Services to Eligible Clients and Determine the Major Steps and a Timetable Necessary to Achieve Those Goals:

The major barrier that low-income persons face in gaining access to the courts in Texas is a lack of resources for the provision of adequate legal assistance. This means that clients who are unable to receive the legal assistance from a legal services attorney or a pro bono attorney may be forced to consider self-representation. In Texas, the courts generally discourage pro se representation. The State Bar of Texas can play a major role in increasing legal services to the poor by reviewing self-help mechanisms to ensure that there is ethical compatibility with the legal practice in Texas and the courts in Texas judicial administration. In particular, where the State Bar of Texas and courts have determined that pro se representation is appropriate, the courts could provide clerical assistance, pre-printed pro se materials available at the court, and encourage pro se assistance clinics. In addition, videotapes and other "how to" materials could be provided to the client community.

The Committee also recommends encouraging the development of a Clearinghouse for the creation and dissemination of community legal education material as previously mentioned during the next year. LSP's in Texas have produced a wide-range of materials, but they currently do not rest in one location for convenient retrieval by interested parties. Much of this information could be provided on the Internet so that interested parties could access this material immediately.

The Committee also recommends the creation of a statewide task force on community legal education and would encourage the task force to examine the following: an education project for "at-risk" and "troubled" youth, increased eligibility for SSI Kids, pro se clinics and group prove up materials, materials specifically for prison inmates, expanding alternate dispute resolution in Texas, additional training for Justices of the Peace regarding pro se representation, materials for immigrant battered spouses, additional information and training for SSI and SI client applications, materials on how to probate wills, materials for the Texas State Client Council, materials for self-help in regards to voting rights, and redistricting information for the year 2000 census.

The Committee recommends the continuation of the Justice for All calendars previously produced by TLSC and TLC.

The Committee recommends that the Committee continue study of increased access to the courts by special populations; such as prison inmates, battered immigrant spouses, minority voting rights, and redistricting issues that will arise around the year 2000 census over the next year.

D. Coordination of Legal Work, Training, Information and Expert Assistance

Scope

LSC

Do program staff and pro bono attorneys throughout the State receive the training and have access to information and expert assistance necessary for the delivery of high quality legal services? How can statewide capacities be developed and strengthened to meet these needs?

Assess the Strengths and Weaknesses of the Current Approach:

Texas LSP's follow varying methods for staff training, including the allocation of budgeted dollar amounts per employee, use of results of evaluation and priorities, and, a combination of the two. Many of the events qualify for continuing legal education credit as programs and training sponsors make an effort to obtain certification for sponsored events. Staff in program offices located in major Texas cities are frequently invited and included in training conducted by law firms. Law schools and other CLE providers such as state and local bar associations make training available for staff and pro bono attorneys.

Texas Lawyers Care (TLC), a department of the State Bar of Texas, provides statewide training and publications directed at all providers of free legal services to low income Texans. TLC sponsors at least two one-day seminars and a three-day conference each year. These training events provide continuing legal education on poverty law topics that are largely unavailable through conventional CLE seminars. In an effort to encourage participation and ease the financial burden on individual program, scholarships are made available to legal aid staff and pro bono attorneys to enable them to attend these training events. TLC provides 35 to 40 scholarships each year to advanced CLE programs sponsored by the SBOT. Additionally, LSC and TEAJF grantees qualify for 50% registration rates to many institutes sponsored by the SBOT. In addition, legal aid attorneys and other non-profit interested organization staff are able to receive specialized training and updates through the Legal Aid Task Forces: Housing/Consumer Law Task Force, Public Benefits/Health Law Task Force and Family Law Task Force. The task forces meet quarterly and travel expenses are reimbursed by the State Bar. TLC also distributes and updates the Attorney Desk Reference, a two-volume set of legal outlines on selected topics, for pro bono and staff attorneys. A video library is available at no charge to providers of free legal services.

Our state has been fortunate to have had training opportunities through a number of sources. For a number of years, and during times when funding was available, Texas Legal Services Center coordinated statewide legal services training events, as many as eight (8) per year. With the assistance of the State Bar of Texas, TLC has assumed training and several other functions previously performed by Texas Legal Services Center. One of the shortcomings in the present approach is the lack of resources to develop multiple training events, including skill training.

Establish Goals to Strengthen and Expand Services to Eligible Clients and Determine the Major Steps and a Timetable Necessary to Achieve Those Goals:

The Committee recommends the following three goals for implementation over the next year:

(1) Goal: To maximize the use of technology in training.

(a) Use of the Internet. Promotion of the use of websites such as those established by Texas Legal Services Center and other Legal Services providers. A concentrated effort will be

made to develop other legal services specific websites to include links to legal resources in private attorney websites.

(b) For certain substantive areas, to establish a limited access legal services chat room. In addition to program staff, pro bono attorneys will have access through local private attorney involvement coordinators.

(c) Utilize individual computers for training modules. Obtain CLE credit where applicable.

(2) Goal: To provide regional in-state training.

(a) Staff programs would be divided into four (4) regions for shared training, based on priorities within the region. This would eliminate the necessity of some individuals having to travel long distances by auto merely to catch a flight from one metropolitan area to another. Consequently, more persons could be trained and travel costs lessened.

(b) Use of donated law school/university space. Each region has one or more law schools within its boundaries. Use of these facilities will eliminate the need to rent space for training events.

(c) Reduce costs by seeking corporate sponsorship or other funding from entities such as bar foundations. Budgeted individual program funds will further offset expenses.

(3) Goal: Expanded use of task forces.

(a) The task forces currently in existence, along with others to be developed, will be used to bring together experienced and new attorneys (staff and pro bono) and for sharing of topics and experiences. In addition, task forces would advise and lead the development of the aforementioned websites.

E. Private Attorney Involvement

Scope

LSC

What is the status of private attorney involvement (PAI) in the State? What statewide efforts can be undertaken increase the involvement of private attorneys in the delivery of legal services?

Assess the Strengths and Weaknesses of the Current Approach

COORDINATION AND COLLABORATION WITH, AND A HIGH DEGREE OF INVOLVEMENT BY THE PRIVATE BAR

- The LSC funded programs in Texas have taken a leadership role in ensuring that private attorney involvement is a critical element of our integrated and coordinated legal services delivery system. In the early 1980s, Texas Project Directors created and funded the State Bar entity known as Texas Lawyers Care. The State Bar of Texas, under the leadership of then State Bar President Bill Whitehurst, ultimately assumed funding of Texas Lawyers Care. Texas Lawyers Care has paid substantial dividends on the initial investment.
- The State Bar of Texas' Legal Services for the Poor in Civil Matters Committee is responsible for oversight of Texas Lawyers Care. The policies and practice of the State Bar of Texas require that two of the LSC funded project directors serve as members of the Legal Services for the Poor in Civil Matters Committee.
- The State Bar of Texas recognizes a wide variety of pro bono activities at its annual convention in the summer. Awards are presented to an outstanding pro bono attorney, a pro bono program, and a law firm or other group of lawyers for exceptional pro bono efforts. The State Bar Legal Services to the Poor in Civil Matters Committee is the committee responsible for reviewing award nominations. The State Bar publishes press releases, announces the awards in the monthly *Texas Bar Journal* and otherwise recognizes the honorees who receive their awards at the Annual Meeting.
- The Pro Bono College of the State Bar was established in 1992 to recognize Texas attorneys who provide at least 75 hours of pro bono legal services to the poor during the year.
- The loss of funding for state support units throughout the country created a real challenge to the Texas LSC programs. The LSC programs, in cooperation with the State Bar of Texas and the Texas Equal Access to Justice Foundation (IOLTA program), made deliberate steps to ensure the ongoing provision of state support in Texas. After defunding, the functions of state support were bifurcated between Texas Legal Services Center and Texas Lawyers Care. Texas Lawyers Care added staff to provide training, publish a poverty law newsletter and provide other support services for LSC staff attorneys and PAI attorneys.

The Texas Legal Services Center also plays a significant role in the involvement of private attorneys in a statewide delivery system. It continues to operate a statewide hotline for older Texans. This project was originally funded by AARP but is now largely funded by the Texas Department of Aging. The Legal Hotline for Older Texans involves private attorneys in order to provide the services. Among other mechanisms, they sponsor a

lawyer referral service in fee-generating cases. Additionally, the state support center has created a special nursing home project, which receives generous funding from private attorneys and the Texas Bar Foundation. The Texas Legal Services Center also monitors state legislation and provides extensive representation of clients before state agencies.

PARTICIPATION AND RECRUITMENT OF PRIVATE ATTORNEYS FROM A STATEWIDE PERSPECTIVE

- The State Bar has administered voluntary annual pro bono reporting since 1992. This process not only provides a means of collecting data on pro bono services but also annually reminds attorneys of the State Bar's aspirational goal of 50 hours of pro bono service each year. Texas Lawyers Care also collects data from the organized pro bono programs so that participation in organized pro bono efforts can be compared from year to year.
- Texas Lawyers Care sponsors workshops for the pro bono coordinators throughout the state. At these workshops, pro bono coordinators evaluate strategies and share successes and failures in all aspects of program coordination.
- Texas Lawyers Care coordinates statewide pro bono recruitment and promotional efforts designed to increase participation with the approximately 100 organized pro bono programs in Texas. *Pro Bono Publico - An Attorneys Guide to Pro Bono Opportunities* is published annually for this purpose.
- In Texas, under the leadership of Texas Lawyers Care and with the creative coordination of pro bono program staff and volunteer attorneys, the private bar throughout the state has been offered an impressive number of opportunities to participate in a full spectrum of pro bono legal work. Numerous local pro bono projects have sponsored special bar programs, such as neighborhood legal clinics, where private attorneys provide advice and brief service. Many of the programs have special projects that involve private attorneys in administrative representation with special emphasis on Social Security and SSI hearings. This past year, a number of programs expanded into this area by recruiting and training attorneys to provide legal assistance to children whose SSI benefits had been terminated. Texas Lawyers Care facilitated those efforts by coordinating training, materials, notice to clients, and referrals.
- The State Bar of Texas has worked in cooperation with the legal services community as a whole in developing opportunities for transactional attorneys to provide pro bono assistance to clients. Indeed, significant effort was dedicated last year to revising the definition of pro bono to make certain that transactional assistance was included in the definition of pro bono. Also, local programs have pro bono and judicare panels which ensure that private attorneys are involved in litigation either directly or as co-counsel.
- Community education would benefit from the involvement of private attorneys. Similarly, pro se clinics are not widespread throughout Texas. Texas Lawyers Care recently published a manual on developing assisted pro se divorce clinics which will hopefully help expand the use of pro se. The State Bar and the local bars have created numerous opportunities for attorneys to volunteer on hotlines. Training, co-counseling and mentoring have been three areas in which there has been a great deal of cross fertilization. Depending on the substantive area of law, legal services attorneys or private attorneys are taking the primary role.

- Use of private attorneys with specialized expertise or skills is an area where improvement can be realized. The State Bar of Texas formulated a three year plan which has identified this problem as an issue of great concern. The Committee recommends cooperation with the State Bar to enhance the delivery of legal services to clients by better utilization of the specialized expertise of the private bar. State Bar sections should be utilized in this process.

TRAINING AND UTILIZATION OF TECHNOLOGY IN SUPPORTING PRIVATE BAR INVOLVEMENT EFFORTS

- Training for private attorneys is incorporated into a State Bar Plan. The State Bar of Texas provides one of the most extensive continuing legal education programs in the country. Legal services providers serve as trainers and many times are the beneficiaries of the expertise that can only be offered by private attorneys. Texas Lawyers Care provides volunteer attorneys from Private Attorney Involvement (PAI) programs with CLE scholarships, thereby providing PAI attorneys not only with appropriate training, but also with an incentive to engage in the pro bono effort.
- As part of the bifurcation of state support services, Texas Lawyers Care took over from Texas Legal Services Center the preparation and maintenance of a two-volume Attorney Desk Reference on substantive poverty law. Texas Lawyers Care also sponsors the annual Poverty Law Conference and other CLE programs to train LSC staff and PAI attorneys in substantive areas of poverty law. In addition to the Poverty Law Conference, Texas Lawyers Care is involved in developing poverty law CLE courses for PAI attorneys, including courses to address the special needs of the undocumented population in the state, such as a special VAWA training on issues affecting immigrant battered women.
- The Texas Legal Services Center received a grant from the Texas Bar Foundation to develop a website. That website is currently online and constitutes an enormous resource to legal services and PAI attorneys. Although this website is already recognized as an extraordinary benefit, it is also noted that it is in an embryonic stage. The Attorney Desk Reference could be posted on the website and the website used to facilitate communication between LSC and PAI attorneys.
- The George Soros Foundation has recognized the need for attorneys from more populous portions of the state to assist clients in areas of the state with few practicing lawyers. The Soros Foundation particularly recognizes the problems faced by practitioners in the rural areas who typically work in firms with limited resources. The Soros Foundation provided a grant of \$500,000 to St. Mary's University School of Law specifically to address this need. A significant component of the Soros project is the involvement of rural private attorneys and utilization of technology to assist those attorneys in delivering quality legal services. With the grant funds, the university has hired a pro bono coordinator and a webmaster. Specific assistance will be provided to these rural attorneys in major litigation and class actions. Texas Rural Legal Aid and Bexar County Legal Aid Association are directly involved with the law school in implementing their clinical programs and assisting the university in accomplishing the goals envisioned in the Soros grant.

Establish Goals to Strengthen and Expand Services to Eligible Clients and Determine the Major Steps and a Timetable Necessary to Achieve Those Goals

The Committee recommends that the Committee review the coordination of Private Attorney Involvement efforts between LSC and TEA/JF grantees over the next year.

F. Resource Development

Scope

LSC

What statewide financial resources are available for legal services to low-income persons within the State? How can these resources be preserved and expanded?

This topic addresses the chronic funding problems that providers of legal services experience in Texas. Although Texas is not unique in this regard, recent events have thrown into sharp focus how difficult it has become in Texas to maintain existing sources of public funding for legal assistance and how correspondingly daunting is the task of creating new ones.

Assess the Strengths and Weaknesses of the Current Approach:

In October of 1992 the following recommendations to the State Bar of Texas Board of Directors were passed by the State Bar Committee on Legal Service to the Poor in Civil Matters:

1. Filing Fee Add-On: That the State Bar Board pursue legislation or a Supreme Court Rule establishing a \$10.00 filing fee add-on to all civil suits filed in District and County Courts, the proceeds of which to go to the Texas Equal Access to Justice Foundation, with the bar deciding which avenue is most politically expedient.
2. Punitive Damages Award: That the State Bar Board propose legislation requiring that 25% of all punitive damage awards in state court be distributed to the Texas Equal Access to Justice Foundation.
3. Real Estate Filing Fees: That the State Bar Board propose legislation to enact a filing fee add-on to all real estate transactions involving financing, the proceeds of which would be given to the Texas Equal Access to Justice Foundation for use in housing and homeless issues.
4. Governmental Attorneys Pro Bono: That the State Bar of Texas urge the Texas legislature to enact statutory authority following the current Attorney General's pro bono policy allowing attorneys of all state agencies and state-supported prosecuting offices to engage in pro bono legal work.
5. Liability Exemption Opposed: That the State Bar oppose a liability exemption for pro bono services, in the event such a statutory exemption should be proposed.
6. Voluntary Dues Increase: That the State Bar Board add a check off line to the upper part of the annual State Bar dues statement for attorneys to make a voluntary contribution of \$100.00 to the Texas Equal Access to Justice Foundation.

The *Texas' State Plan for the Delivery of Legal Services to the Poor by Federally Funded Programs* (hereinafter referred to as the 1995 State Plan) was adopted by the Texas State Legal Services Plan Special Committee in late 1995. First among the listing of Areas For Further Study was (1) expanding alternative funding sources and the following four areas were listed: legislative initiatives (e.g., filing fee add-on, line-item, State Bar of Texas license plates); (2) private bar fund-raising initiatives; (3) corporate/business fund-raising initiatives; and (4) local government funding initiatives.

Since adoption of the 1992 and 1995 plans, Texas has made considerable progress towards implementation of the recommendations contained therein. During the 1996-97 legislative session a filing fee add-on bill included in the State Bar of Texas' (SBOT) legislative package and was supported by both the federally funded programs and other providers of legal services to the poor. The Basic Civil Legal Services Programs was passed and signed into law and, in 1998, awarded its first grants disbursing \$400,000 statewide. The State Bar has also added a voluntary check off line to the upper part of the annual State Bar dues statement for attorneys to make a voluntary contribution to the Texas Equal Access to Justice Foundation which raises roughly \$50,000 a year. This year, the SBOT legislative agenda includes an "and Justice for All" license plate proposal.

The current SBOT President, Richard Pena, has also undertaken two new initiatives that should ultimately expand resources for legal services to the poor. The first is the "Stand Up for Justice Campaign" which seeks to go beyond the legal community in explaining the role law, lawyers and the legal process play in society and the second is a high level series of brainstorming meetings around the state to develop the next IOLTA program. Texas bar leaders are acutely aware of the prospect that Interest On Lawyers Trust Accounts programs may cease to exist as a result of the Washington v. Phillips litigation and are looking for ideas that will lead to programs which have the capacity to generate large scale funding for legal services to the poor similar to those produced by IOLTA.

The State Bar of Texas has also created and funded the Texas Professional Liability Insurance Network to reduce the costs of professional liability coverage for federally funded legal services programs, pro bono programs and others providing free legal services to the poor. The Texas Bar Foundation has also renewed its commitment to fund legal services to the poor and local programs have sought bar foundation funding more aggressively.

In Texas the state based strategy to involve stakeholders in a coordinated and sustained effort to preserve and where possible expand, existing state revenue sources, is led by the SBOT's Standing Committee on Legal Services to the Poor in Civil Matters (hereinafter referred to as the Standing Committee), the Texas Equal Access to Justice Foundation (hereinafter referred to as TEAJF) and by SBOT President Richard Pena's "Standing Up for Justice Campaign". Sources of statewide revenues being received in other states have been studied and where appropriate, strategies have been developed to obtain such revenues in Texas. Among the sources of revenues that have been sought and achieved are a filing fee surcharge, a state bar dues checkoff, and state bar funding of professional liability coverage for providers of civil legal services to the poor and pro bono programs through the Texas Liability Insurance Network. The SBOT has also undertaken and funded many on-going state support activities including communications and training functions.

Programs and stakeholders have developed strategies to expand support for legal services beyond the legal community and involve other community leaders in resource development efforts. These strategies include creating a high level collaboration with the United Way of Texas to enhance attorney giving to local United Ways and to increase support for United Ways to fund local legal services programs. On a local level individual programs have undertaken to expand resource development efforts through local bar campaigns, grant writing and pursuit of local governmental support.

Regrettably, programs and stakeholders have been less effective in developing strategies to obtain additional resources for areas of the state with disproportionately low resources and for client groups that are least favored and can no longer be served by the federally funded entities such as undocumented aliens and prisoners. Programs and stakeholders have also made little headway in developing a concerted state fund-raising campaign due, at least in part, to the size and diversity of Texas and its legal services providers.

Establish Goals to Strengthen and Expand Services to Eligible Clients and Determine the Major Steps and a Timetable Necessary to Achieve Those Goals:

The Committee recommends that the Committee continue discussion that is currently under way to strengthen and expand resource development efforts over the next two years in the following ways:

1. New Legislative Initiatives
 - a. Attorney Occupation Tax: Seek legislative reallocation of the attorney occupation tax from the state's general revenue to specifically support legal services to the poor;
 - b. Outside Counsel: Seek legislation to make state attorney general's authorization to retain outside counsel in civil litigation contingent upon dedicating to legal services for the poor a percentage of any fee awards; and
 - c. Escheat: Revise the laws regarding escheat of lapsed lawyer trust account funds to allow these funds to be turned over to the Texas Equal Access to Justice Foundation for distribution to programs providing free civil legal services to the poor.

G. System Configuration

Scope

LSC

How should the legal services programs be configured within the State to maximize the effective and economical delivery of high quality legal services to eligible clients within a comprehensive, integrated delivery system?

Assess the Strengths and Weaknesses of the Current Approach:

Analyzing the configuration of a system as complex as Texas' provider network is no simple task. [See the previous discussion in Section A, Intake, Advice and Referral] Nevertheless, examining how the State provider system evolved, how it sustains itself and how it plans to go forward is an effort that the grantees support.

The provider community must examine the pros and cons of programs getting larger, smaller or remaining in the current form. Such possible changes cannot be examined in isolation, but must be analyzed not only in terms of all the other issues presented in this report, but particularly in regard to the judgements of clients, community leaders and poor people's support organizations, staff, board, the private bar, funders and elected officials.

The Texas delivery system evolved without any statewide planning, and except for a few mergers and consolidations in the early years of the Legal Services Corporation, and last year with respect to Webb County, the system has remained virtually untouched. Thus, LSC funds three large regional programs (TRLA, WTLS, ETLS) and two large urban programs (GCLF, LSNT), three smaller regional programs (HTLS, CBLS, LACT), and two single-county programs (El Paso and Bexar). LSC also funds TRLA to represent migrant farm workers throughout the state. In addition, there are a number of specialty programs that address the needs of particular groups (Advocacy, Inc., MALDEF, NAACP, TCRP, AIDS, battered women, and immigrants rights organizations), and a few law school clinics and independent pro bono projects. There are even two state support organizations with similar, but different, functions: the SBOT's Texas Lawyers Care and the Texas Legal Services Center.

The ten legal services programs in Texas provide high quality legal services to their respective client populations in an economical, efficient, and effective service delivery system.

Establish Goals to Strengthen and Expand Services to Eligible Clients and Determine the Major Steps and a Timetable Necessary to Achieve Those Goals:

The Committee recommends that the committee continue to study system configuration. The Committee has already agreed to continue meeting over the next year, and studying this issue will be one of its most important tasks.

The following, as suggested by LSC, are many of the relevant considerations in judging whether the existing configuration of programs makes sense in Texas:

- Size, complexity, cultural and ethnic diversity/homogeneity of client population.
- Geographic, physical, and historical distinctions and affinities within the State.
- Variation in local clients needs and ability to respond and set priorities accordingly.

- Assessment of program performance and capacity to deliver effective and efficient legal service in accordance with LSC and other professional criteria.
- Ease and efficiency of client access to services and opportunities for improvement.
- Capacity to efficiently and effectively conduct community legal education, pro se and outreach activities.
- Current levels of private bar involvement and potential for expansion.
- The availability of training, expert assistance, and information about legal developments.
- Current funding sources and potential to expand resources.
- Cultural and ethnic diversity of program leadership and management.
- Relative costs associated with fiscal and administrative responsibilities and potential savings in management, board, and administrative costs.
- Impact of salary differences between programs considering merger.
- Resources of law schools.
- Relationship and cooperation between LSC funded and non-LSC funded programs regionally and statewide.

H. Leadership

In order to create effective collaboration and cooperation within an integrated and comprehensive delivery system, the system must have strong leadership.

This planning process must consider the need to identify, cultivate and support both management and staff leaders. Each element of an integrated statewide system should ensure that there is or will be leadership to accomplish and support an effective system. Funding to support system leadership in managing and coordinating the entire system of civil legal services, and particularly substantive areas such as technology, delivery methods/intake, must be nurtured and should be addressed in the planning process.

The Committee recommends that the Legal Services Corporation funded Texas Project Directors, Representative from TEAJF, Representative from the SBOT, Texas Lawyer's Care and TEAJF grantees meet regularly on issues of legal services management and funding and that the Committee assume a leadership role in developing a comprehensive plan for providing legal services to the poor in Texas over the next year.

An analysis of leadership issues for Texas' civil legal services system must include key elements such as the following:

- Leadership to manage the growth and coordinate the operation of Texas' civil legal services system.
- Leadership to seek and maintain adequate funding for all system components.
- Leadership to insure coordination of services across program lines.
- Leadership to insure that all system participants have access to, and use, the most effective technology.
- Leadership to build public support for civil legal services in Texas.
- Leadership to promote diversity within civil legal services in order to better serve our diverse client community.
- Leaders and institutions to mentor new leaders.
- Leadership to insure cooperation among all civil legal services providers, both LSC and non-LSC funded.

I. Ethics

The practice of legal services for the poor is a specialized field, often bearing characteristics not shared by private practice. As one example of the difference, rarely can poor clients choose their attorney. Most consider themselves lucky to obtain legal assistance at all. They may, thus, feel that it is unwise to challenge or even question their lawyer. Getting a second opinion or changing lawyers is surely even more daunting. This creates a special attorney-client relationship. But is it more than that; is it perhaps an inherently unequal one? And, if it is, what are the ethical implications for legal services attorney?

As the legal services system presses to try innovations such as those discussed in this paper, ethical concerns cannot be overlooked. Thus, for instance, what are the implications stemming from the greater use of brief service models or hotlines or no-attorney alternatives such as *pro se* programs?

There exists a body of proscriptive law and advisory guidance at the State and national level to which all attorneys must conform. However, the practice of civil legal services law presents unique issues that are not often confronted by the average private practitioner. Specific guidelines, tailored to the dilemmas that a practitioner of legal services law must face, is not readily available.

The Committee recommends that the Committee continue to study ethical issues over the next year. In February, 1999, the State Bar of Texas, through its Texas Lawyers Care department, will present its third annual Poverty Law Conference. The projected topics for the conference include a four-hour Ethics Track designed to review unique issues confronting the practitioner of civil legal services law. As part of the planning and Ethics Track, Texas Lawyers Care has consulted with a number of Texas experts in the field of legal ethics, including Professor Charles A. Silver, University of Texas School of Law, and Berry Crowley, Texas Center for Legal Ethics & Professionalism. Steve Moyick, Office of the General Counsel of the State Bar of Texas will present a workshop on *Unbundling Legal Services: Ethical Issues in Assisted Pro Se Clinics, Self-Help Materials, Limited Representation & Hotlines*. Chuck Herring, Jr., Herring & Irwin, L.L.P., will cover *Ethics & Malpractice: Overview of Recent Developments*. The Ethics Track is designed to relate specifically to the issue discussed in this report, as follows:

Intake and Delivery

- How do existing professional standards and unauthorized-practice laws apply to the various work of non-lawyers and are these standards and laws appropriate or should they be revised?
- Does limited assistance constitute legal representation rather than merely the dispensation of legal 'information'? If so, does it satisfy the standards of competence? Do these short term relationships between clients and lawyers present problems of conflict-of-interest and client confidentiality?
- Is it appropriate to make categorical decisions about who to represent or which types of cases to take on, and, if so, how should such decisions be made?
- To what extent is it appropriate to limit the scope of representation (e.g., 'advice only' or 'negotiations only' or 'administrative hearing but not appeal'), to condition the representation on the client's willingness to accept the lawyer's advice or to delegate to the lawyer decisions that are traditionally made by clients (e.g., whether to accept a particular settlement)?

- Are some approaches to dealing with client, matter and case selection more appropriate than others? Should some be deemed unacceptable? Should new approaches be considered in light of recent social and political changes?
- In providing information or legal assistance to low-income persons, do both the lawyers or others providing assistance and the individuals receiving the assistance adequately understand whether or not a lawyer is providing legal representation in the context of a lawyer-client relationship, and, if so, do all parties understand the scope and limits of representation?
- To the extent that individuals are not receiving legal assistance, do they understand why not?
- To the extent that individuals are receiving limited legal assistance, do they understand the extent to which it is limited, what they must do on their own, and how to do it?

Private Attorney Involvement

- What obligations are undertaken by the organizations that assist lawyers in identifying indigent clients who are in need of assistance? Do these organizations have an obligation to ensure that volunteer lawyers are qualified to perform the work they are undertaking or an obligation to supervise or review the *pro bono* work? Do they assume attorney-client obligations (e.g., duties of confidentiality or loyalty)?

Financial Resources

- How should legal services advocates respond to outside influences (e.g. from financial supporters) in light of their ethical obligations of competence, loyalty, confidentiality and zealous advocacy?

J. Equal Access and Restricted Funds

At its inception the Legal Services Corporation was intended by the Congress to provide the full range of access to justice for the poor. “The Congress finds and declares that (1) there is a need to provide equal access to the system of justice in our Nation for individuals who seek redress of grievances.” *Legal Services Corporation Act of 1974*, § 1001. Unfortunately, there has been a steady erosion of the concept of “equal access to the system of justice.” Since 1996, “equal access” for the poor does not include the following:

1. access to legislative bodies where the laws are being written;
2. participation in administrative proceedings where the rules are being written;
3. use of Rule 23 of the Federal Rules of Civil Procedure or Rule 42 of the Texas Rules of Civil Procedure (pertaining to class actions);
4. reimbursement of attorneys’ fees in successful lawsuits;
5. any access at all if you happen to be in jail or prison at the time;
6. any access if you are falsely accused of a drug offense and the local housing project wants to evict you on that ground;
7. any access, using any kind of funding, if you are an undocumented alien;
8. the ability to challenge unconstitutional “welfare reform” statutes and rules; and,
9. bringing civil rights actions to contest discriminatory voting districts in cities, counties, and school districts.

However, “equal access” apparently does require the application of “special” rules to poor people’s lawyers regarding solicitation that are not applicable to other lawyers, that require the poor person’s lawyer to reveal the identity of her clients before attempting to negotiate with the opposing party, and that require the indigent client to produce a discoverable written statement that “enumerates the particular facts known to the plaintiff upon which the complaint is based.”

It can hardly be argued that such restrictions on equal access to justice “ha[ve] reaffirmed faith in our government of laws,” *id.*, § 1001(4), on the part of many poor people. Nevertheless, LSC-grantee programs, who provide the majority of the legal services to the poor in Texas, must abide by these restrictions on access, eligibility, and the practice of law. For those who truly believe in the concept of “equal justice for all,” a state system for the delivery of legal services to the poor must contain adequate resources for the representation of clients who are ineligible for federally-funded legal services and for those eligible but whose legal needs cannot be met by the LSC grantees due to restrictions.

Unfortunately, there are major obstacles in Texas for achieving “equal access” for disfavored clients and politically unpopular cases. In the vast majority of states, the funds derived from interest on lawyer trust accounts are available with few, if any, restrictions of the type described above. The Texas Equal Access to Justice Foundation, however, must administer IOLTA and filing fee funds that, in many respects, are even more restricted than LSC funds. IOLTA funds in Texas cannot be used for representation in suits against any governmental entity, nor may they be used for representation in a class action or for lobbying a legislative body. Those funds may be used for representation of aliens who do not fall within the narrow categories allowed by LSC rules. The funds received by the Foundation from civil court filing fees – the Basic Civil Legal Services program – are among the most restricted, including the onerous restrictions on the representation of aliens. As a result of not having a significant source of unrestricted funds, none of Texas’ LSC grantees could follow the examples in many other states of referring cases to unrestricted counterpart organizations.

There are relatively few programs in Texas that can respond to the need for unrestricted representation, and those that can have precious few resources. The Texas Civil Rights Project, the National Association for the Advancement of Colored People, the Texas Civil Liberties Union,

the Southwest Voter Registration and Education Project, the new Appleseed Foundation, and the Mexican-American Legal Defense and Education Fund are small organizations with very small, if any, full-time legal staffs. Their representation, due to the paucity of resources, must be limited by necessity to matters of state-wide importance and other cases of exceptional importance to their core constituencies. They are unable to respond to the urgent legal needs of most aliens, prisoners, and members of other disfavored groups, and their resources are concentrated in a small cluster of urban areas of the state.

Texas needs an unrestricted source of funds that will allow any indigent person full access to the system of justice without limitations or exceptions. One proposal would establish a non-profit corporation to make grants to private attorneys for costs and expenses, and, in appropriate cases, fees in the nominal range of \$50 to \$75 per hour, for representation in cases that cannot be handled by existing programs due to restrictions. A small staff would direct the program, keeping administrative expenses to a bare minimum. Funds would have to come from unrestricted sources, such as private contributions or *cy pres* distributions of unclaimed class action or other settlement funds.

Because of severely limited resources in Texas, legal services programs using LSC or other restricted funds must strive to leverage those funds, consistent with restrictions, in any case in which extended representation is undertaken. Every case should be examined for its potential impact on indigents who are not before the court or other tribunal. Cases that have the potential for improving the law for poor people generally or that would have a prophylactic benefit through the enforcement of existing laws should be given preference over cases that have no such collateral benefits, all other considerations being equal.

Those clients who cannot be served due to restrictions should be referred to providers who are not restricted from delivering needed services, if at all possible. LSC providers, being programs of general jurisdiction within their respective service areas, can play a crucial role in coordinating a response to clients and cases that cannot be handled by the program due to restrictions. Intake workers at LSC-funded programs should be trained to identify the restricted clients and cases and to know which programs in the state might be able to address the applicant's legal needs. The intake process should include all information necessary to make a seamless referral of the case to the organization most likely to provide meaningful service.

The Committee recommends that the Committee continue to study this issue over the next year.

A P P E N D I X

K. 1995 Texas Plan

TEXAS' STATE PLAN FOR THE DELIVERY OF LEGAL SERVICES TO THE POOR BY FEDERALLY FUNDED PROGRAMS

IV. HISTORY OF PROCESS

In July, 1995, Alex Forger, President of the Legal Services Corporation (LSC), requested each state to develop a statewide legal services planning process and to make recommendations to LSC on the distribution and use of LSC funding in each state for 1996 and years to follow. State Bar of Texas leaders and other interested persons had previously acknowledged that anticipated Congressional actions required a significant response and that such a plan was needed. In addition to innumerable telephone calls, personal meetings of small groups and exchanges of letters and memoranda, four major planning sessions were held in Texas.

The process by which the Texas Legal Services State Plan would be developed was agreed upon at a State Bar of Texas leadership meeting on July 20, 1995. Included were David Beck, President of the State Bar of Texas, Otway Denny, Chair of the Board of the State Bar of Texas, Tony Alvarado, Executive Director of the State Bar of Texas, Frank Newton, Chair of the Board of Directors of the Texas Equal Access to Justice Foundation (IOLTA), Kirk Watson, Chair of the Legal Services to the Poor in Civil Matters Committee of the State Bar, and Julie Oliver, Executive Director of Texas Lawyers Care, the Pro Bono support project of the State Bar.

This leadership recognized that while the issue of the delivery of legal services to the poor in Texas indeed a responsibility of the legal profession, it is equally an issue of the entire Texas community. Thus, the leadership committed to include in the process those who may ultimately be involved in addressing the legal services to the poor issue. Additionally, the leadership agreed that all who are currently involved in, interested or affected by the delivery of legal services to the poor in Texas should be included in this very important discussion.

The agreed-upon process was discussed with Texas LSC project directors at their meeting on August 14, 1995. Also participating in that meeting was Allan Lieberman of LSC.

The cornerstone event of the planning process was a statewide legal services summit sponsored by the State Bar of Texas, the Texas Equal Access to Justice Foundation, and the Texas Legal Services Center on September 27, 1995. Over 189 people were invited from the following groups:

- Leadership of the State Bar of Texas
- Leadership of the Texas Young Lawyers Association
- The State Bar's Legal Services to Poor in Civil Matters Committee
- The Supreme Court of Texas
- The Governor's Office of the State of Texas
- The Texas Senate
- The Texas House of Representatives
- The Texas Attorney General's Office
- Other state officials
- LSC project directors, senior litigators, and in house pro bono coordinators
- LSC project board chairs
- Non-LSC-funded IOLTA grantees
- The Texas Clients Council
- The Texas Equal Access to Justice Foundation Board
- National Organization of Legal Services Workers
- The Texas business community
- Statewide minority and women's bar associations
- Statewide client advocacy groups such as NAACP, LULAC, Texas Council on Family Violence, Consumers Union, ACLU
- The Texas Bar Foundation
- The United Way of Texas

Texans active in national legal services groups

A complete invitation list is attached. A tremendous response to the invitations was received with 131 persons attending the summit. A list of those who attended is also attached.

As can be seen by the attached copy of the summit agenda, a great deal information, discussion and brainstorming was compressed into one day. Participants were first provided an overview of the current structure of the delivery of legal services to the poor in Texas as well as a description of support services. Attendees also heard an update of congressional actions regarding the LSC, including funding reductions and possible elimination and additional restrictions. John Arango, a nationally recognized expert on legal services planning, provided guidance on planning for the future of legal services to the poor in Texas.

The critical work was accomplished during the afternoon breakout sessions. Participants were divided into six diverse groups which were led through the discussion\brainstorming session by skilled facilitators. A State Bar or IOLTA staff member acted as the recorder for each group. Each group discussed and, when possible, made recommendations on such issues as how to assure the continuation of a full range of legal services for the poor, additional resource needs and how to obtain them, how to reduce the impact of funding cuts by providing services more economically, how to assure the continuation of high quality services, how best to mobilize pro bono resources to an even greater extent to address these issues, whether better efficiency and effectiveness can be achieved through a statewide intake/hotline system, and additional input into a competitive bidding process.

Following the breakout sessions, the entire group reconvened for reports summarizing the breakout sessions. Many good ideas were generated and areas of consensus among the breakouts and participants were identified. All of this information was compiled into written reports by the recorders.

The Texas Legal Services State Plan Special Committee was created to synthesize the summit discussions and to develop the ultimate Texas State Legal Services Plan. This committee is composed of representatives of the various groups that were invited to the statewide meeting. Led by David Beck, President of the State Bar, and Frank Newton, Chair of the Texas Equal Access to Justice Foundation, the committee also includes Colleen McHugh, President-elect of the State Bar of Texas, the Honorable Priscilla Owen, representing the Supreme Court of Texas, Kirk Watson, representing the State Bar Legal Services to the Poor in Civil Matters Committee, Regina Rogoff, representing the Texas LSC project directors, Jim Comstock-Galagan, representing the non-LSC IOLTA grantees, and Mary Wilson, representing the Texas Clients Council. Serving in a liaison or ad hoc capacity are the Honorable Royce West, Texas Senate, the Honorable Elliott Naishtat, Texas House of Representatives, Al Gonzales, General Council for the Governor of Texas, Steve Crane, National Organization of Legal Services Workers, and Bonnie Marsteller, Dallas Bar Association Pro Bono Project.

The Special Committee held its first meeting on October 25, 1995, at which time it focused on those issues most critical to the anticipated LSC competitive bidding process, as requested by LSC. Later sections of this initial report will provide that input for LSC. However, the work of the Special Committee will continue toward development of a comprehensive plan for the delivery of legal services to the poor in Texas in the years ahead. Those efforts will be guided by the legal needs of the poor in Texas and the principles described below.

11. GUIDING PRINCIPLES

As the State Bar of Texas Legal Services Plan Special Committee has moved through the process of developing a state plan to address the legal needs of poor Texans, it has been guided by certain overarching principles. These principles are based on notions of fundamental fairness and the rule of law which the Special Committee believes represent the values of the legal profession and the citizenry of our state.

Equal Justice: Access to the Judicial system should not be based on one's ability to pay. Texas citizens should have the same rights before the law and reasonable access to legal advocacy regardless of their ability to pay.

Comprehensive Advocacy: Low income persons have legal needs in a broad range of substantive areas. The range and complexity of these needs, as well as the dictates of professional responsibility, necessitate a comprehensive advocacy system. Such a system would encompass a full range of methodologies and access to forums in which decisions are made that 'impact the lives of the state's neediest citizens.

Special Needs: Texas is a large and highly diverse state with a number of persons that have special legal needs and/or unique obstacles to accessing legal services. These include the elderly, youth, victims of familial violence, persons with physical and mental disabilities, the rural poor, the homeless, persons with HIV, migrant farm workers and others. The State's civil legal services plan must address the needs of these and similar client groups and services must be delivered -in a manner that is sensitive to different cultures, values and aspirations.

Efficient Utilization of Resources: The State's civil legal services delivery system must operate in an efficient manner utilizing all available resources. The system should avoid duplication of capacities and administration; develop and maintain coordinated and accessible client intake, case evaluation and referral systems; and, strive to maintain organizational relationships and structures that maximize economies of scale and promote the effective use of existing and emerging technologies.

Effective Utilization of Resources: The State's civil legal services delivery system must operate in an effective manner. The geographic size of the state; the range and complexity of legal issues affecting the State's poor; the State's special population groups; pending changes in the law at the national, state and local levels; and, the dramatic reduction in funding for legal services to the poor, necessitate a civil legal services delivery system that is flexible enough to respond at the state and local level to changing environmental, social and political conditions.

Adequacy of Resources: The current civil legal services system in Texas has three main components: (1) federally funded legal aid/legal services for the poor; (2) non-federally funded legal services programs for specific targeted population groups; and (3) private attorney involvement programs, including pro bono lawyers. Resources for legal services to the poor in Texas have never been sufficient to meet the need or demand for these services. The State Bar of Texas and the legal community as a whole must seek to develop sufficient resources, including in-kind and pro bono services, such that legal services are delivered in an effective manner, with sufficient capacity to address the priority needs of the State's low- income populations.

Quality- Legal representation provided to the State's poor should comport with applicable ethical obligations to clients and conform to the performance expectations established in the American Bar Association's Standards for Providers of-Civil legal Services to the Poor (in case of staffed legal services

providers) and the emerging Standards for Programs Providing Civil Pro Bono Legal Services to Persons of Limited Means (ABA Standing Committee on Lawyers' Public Service Responsibility, February 1995 Draft) (in the case of volunteer attorney program components.)

Accountability: The State's civil legal services delivery system must be structured in a manner that fully accountable to both its funders and clients, while protecting the integrity of critical functions and the professionalism of service providers and assuring that the priority needs of the State's low-income populations are served.

III. Statewide Recommendations

A major topic of discussion at the Statewide Legal Services Summit was the concept of mergers, consolidations, collaborations and other cooperative endeavors. The Special Committee met with representatives of the two programs having the smallest number of low income persons in their service areas - Heart of Texas Legal Services and Laredo Legal Aid Society- to discuss their views on their potential merger with another program or programs. Because of the limited time and the complexity of the issues involved, the Committee feels it is premature to make final recommendations.

Nevertheless, the Special Committee believes there may be economies of scale that can be achieved by merging Heart of Texas Legal Services and/or the Laredo Legal Aid Society with other nearby programs. However, recommendations on program mergers should await a more thorough investigation and analysis and give utmost consideration to the needs of clients. To that end, the Special Committee has contacted the Comptroller of the State of Texas and his office has agreed to help the Committee with a performance review of Texas legal services providers consistent with the ABA Standards for Providers of Legal Services to the Poor in Civil Matters and the LSC Performance Criteria. The purpose of this review is to determine economies of scale and the appropriateness of consolidations or mergers and to evaluate the on going support in service needs of legal service providers. The Texas Comptroller's Office is nationally recognized for its performance review work and has a successful track record evaluating programs and systems of varying size and nature of work. While details are still being worked out, the Committee communicated to the Comptroller that it would like to be furnished a report by January 1, 1996.

1. **Recommendation: A final decision concerning program mergers in Texas should await an analysis performed with guidance from the Comptroller of the State of Texas and the development of recommendations by the Special Committee based on the Comptroller's report.**

LSC-funded legal services programs are subject to a requirement to expend an amount equal to twelve and one-half percent (12.5%) of their LSC grants on private attorney involvement (PAI) in the delivery of legal services to the poor. PAI efforts in Texas are highly successful and enjoy the broad support of the community, the private bar and the legal services programs. In order to assure the continuation of the worthwhile and successful PAI efforts in Texas and, at the same time, give the LSC-funded programs additional financial flexibility in a year in which programs will be adjusting to drastically reduced budgets, the Special Committee plans to explore ways to raise funds that will offset between \$1.5 and \$2 million of program PAI expense.

2. **Recommendation: LSC should agree for 1996 to grant Texas programs a partial, waiver of the 12.5 percent PAI requirement on condition that other sources of support are found to maintain existing pro bono programs.**

Providing legal services to the poor in a state as large and diverse as Texas, challenges the capacity and creativity of providers in the best of times. In a time of diminishing resources, the challenge is to provide more services, at less cost. Intake "hotlines" are potentially a way of providing efficient, high volume services, where appropriate, while making use of new technologies.

The Special Committee recognizes that hotlines providing legal advice and referrals are not an adequate substitute for legal representation in many circumstances. Hotlines may, however, complement the representation provided by legal services programs. It is not the Special Committee's view that hotline advice can substitute for a more personal legal representation when needed.

Deciding what type of "hotline" systems will best meet the needs of the urban poor, residents of vast, sparsely populated areas, migrant workers, or non-English speakers, will require careful study and development. The Special Committee would like to explore, in cooperation with private industry, the most effective and least expensive ways to provide "hotline" services for clients in a variety of settings.

3. **Recommendation: Under the auspices of the Special Committee, LSC-funded programs in Texas should participate in a study of "hotline" systems to be undertaken to determine whether hotlines offer a means for providing effective, low-cost intake, referral, and counseling services to the poor in Texas.**

In addition to the "basic field" programs funded by LSC, LSC also funds at least one program in each state to provide specialized legal services which can reach migrant and seasonal farm workers and meet their legal needs. In Texas, the LSC migrant grant goes to Texas Rural Legal Aid (TRLA) which operates a statewide migrant legal services program. The TRLA migrant staff has operated out of five offices representing farm worker clients on such matters as wage claims, breach of employment contracts, pesticide poisonings and other work injuries, employment discrimination, unemployment insurance claims, and problems with employment taxes.

Migrant farm worker clients have considerable difficulty in getting to and staying **in** contact with field program offices. Moreover, the legal problems which migrants typically encounter are very different from the problems which basic field programs normally address. A specialized migrant program is necessary in order to deliver legal assistance in the unique ways which can make those services accessible to farm worker clients as they move around the state and the nation, usually working and living in remote, isolated locations. A specialized migrant legal services program is also able to develop and maintain the legal experience and expertise necessary to respond efficiently to the unique legal problems migrants face and secure for them meaningful, on-going access to the legal system.

A single statewide program can develop and nurture an expertise in farm worker law and delivery techniques, so as to provide integrated, on-going service to migrant clients as they move from area to area and from state to state. Resources awarded locally from the LSC funds allocated to Texas on a per-capita basis cannot adequately fund the cost of providing legal services for the large migrant population in Texas, one of the two largest in the nation. Additionally, allocating funds for migrant legal services from funds allocated to Texas under the per capita allocation will pit providers of legal services to non-migrants against those providing legal services for migrants.

4. Recommendation: LSC should allocate funds for migrant legal services to an experienced single provider in Texas from the funds available nationally, to the extent allowed by law.

IV. AREAS FOR FURTHER STUDY

As the Special Committee continues to develop a state plan for legal services to the poor, it will review

a number of additional areas including the following:

A. Expanding alternative funding sources

1. Legislative initiatives (e.g. filing fee add-on, line-item, State Bar of Texas license plates)
2. Private bar fund-raising initiatives
3. Corporate/business fund-raising initiatives
4. Local government funding initiatives

B. Law school initiatives, including

1. New internship program for 3rd year law students
2. Family law course mandate
3. Mandatory law student pro bono
4. Involvement in continuing legal education for legal services and pro bono attorneys

C. Simplification of access to the legal system, including

1. Facilitating pro se representation
2. Unbundling of legal services

D. Holistic approaches to meeting legal needs of the poor, including

1. Expanding involvement of entire community in legal services to the poor
2. Working cooperatively with other providers of assistance to the poor to maximize effectiveness, efficiency, and access

E. Development of a quality intake/hotline system that minimizes the difficulty of accessing legal services to the poor and maximizes the number of poor Texans who are served by the Texas legal services delivery system.

F. Special legislative activities with respect to above or other initiatives

- G. Expanding pro bono participation in legal services to the poor
- H. Assuring necessary support for the delivery of legal services to the poor including but not limited to training, litigation and other advocacy, communications, networking, community legal education, practice manuals, and efforts to improve the utilization of technology within programs.
 - 1. Applying the criteria and principles established herein to the state's non-federally funded providers of legal services to the poor. For instance, reviewing and assessing economies of scale that can be achieved throughout the legal services delivery system.